



24 CFR Parts 247, 880, 884, 886, 891, and 966

[Docket No. FR-6387-P-01]

RIN 2501-AE09

**30-Day Notification Requirement Prior to Termination of Lease
for Nonpayment of Rent**

AGENCY: Office of the Secretary, U.S. Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: Under this proposed rule, when tenants who reside in public housing or in properties receiving project-based rental assistance (PBRA) face eviction for nonpayment of rent, public housing agencies (PHAs) and owners would need to provide those tenants with written notification at least 30 days prior to the commencement of a formal judicial eviction procedure for lease termination. For purposes of this proposed rule, PBRA includes projects in the following programs: Section 8 Project-Based Rental Assistance, Section 202/162 Project Assistance Contract, Section 202 Project Rental Assistance Contract (PRAC), Section 811 PRAC, Section 811 Project Rental Assistance Program (811 PRA), and Senior Preservation Rental Assistance Contract Projects (SPRAC). This proposed rule would curtail preventable and unnecessary evictions by providing tenants with time and information to help cure nonpayment violations.

DATES: Comments are due by **[Insert date 60 days after date of publication in the *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Members of the public may submit comments by

mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410-0500. Due to security measures at all Federal agencies, however, submission of comments by standard mail often results in delayed delivery. To ensure timely receipt of comments, HUD recommends that comments submitted by standard mail be submitted at least two weeks in advance of the deadline. HUD will make all comments received by mail available to the public at www.regulations.gov.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the www.regulations.gov website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. All submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD are available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about

how to make an accessible telephone call, please visit

<https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Copies of all comments submitted are available for inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: For Public and Indian Housing: Danielle Bastarache, Deputy Assistant Secretary for Public Housing and Voucher Programs, 451 7th Street SW, Room 4204, Washington, DC 20410, telephone number 202-402-1380 (this is not a toll-free number). For a quicker response, email publichousingpolicyquestions@hud.gov.

For Multifamily: Ethan Handelman, Deputy Assistant Secretary for the Office of Multifamily Housing Programs, 451 7th Street SW, Room 6106, Washington, DC 20410, telephone number 202-708-2495 (this is not a toll-free number). For a quicker response, email mfcommunications@hud.gov. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION:

I. Background

Evictions Cause Harm to People and Families, and the Harm Is Not Equally Distributed.

Eviction has long created housing instability for renter households and is linked to long-term negative consequences, particularly among children.¹ When children are forced to move from their homes, they often experience increased health risks and decreased educational attainment, owing partly to the disrupted social networks of these forced moves.² Eviction filings

¹ Sandel, Megan, et al. (2018). Unstable housing and caregiver and child health in renter families. *Pediatrics* 141(2); Cutts, Diana B., et al. (2022). Eviction and household health and hardships in families with very young children. *Pediatrics* 150(4).

² Maxia Dong et al., “Childhood Residential Mobility and Multiple Health Risks during Adolescence and Adulthood: The Hidden Role of Adverse Childhood Experiences,” *Archives of Pediatrics & Adolescent Medicine* 159, no. 12 (2005): 1104–1110; Shana Pribesh and Douglas B. Downey, “Why Are Residential and School Moves Associated with Poor School Performance?,” *Demography* 36, no. 4(November 1, 1999): 521–34; Kathleen M. Ziol-Guest and Claire C. McKenna, “Early Childhood Housing Instability and School Readiness,” *Child Development* 85, no. 1 (January 1, 2014): 103–13; Philip Garboden, Tama Leventhal, and Sandra Newman, “Estimating the Effects of Residential Mobility: A Methodological Note,” *Journal of Social Service Research* 43, no. 2 (March 15,

also put households at increased the risks of homelessness, thereby burdening already over-subscribed State resources, including the shelter system.³ Estimates of the share of evicted households that enter homeless shelters range from 14 percent to 25 percent.⁴ Without a steady address, low-income households experience difficulty applying for and maintaining employment. In fact, low-income renters who experience a forced move are more likely to experience a subsequent job loss.⁵ Across a range of health and mental health outcomes including depression, anxiety, Body Mass Index (BMI) and mortality, forced moves resulting from eviction are impactful.⁶

People of color, women, and families with children are more likely to be evicted. A 2020 study found Black renters received a disproportionate share of eviction filings and experienced the highest rates of eviction filings and eviction judgments. The study stated that Black and Latinx female renters faced higher eviction rates than their male counterparts.⁷ Another study found that almost 15 percent of American children born in large cities between 1998 and 2000

2017): 246–61; Amy Ellen Schwartz, Leanna Stiefel, and Sarah A. Cordes, “Moving Matters: The Causal Effect of Moving Schools on Student Performance,” *Education Finance and Policy*, May 18, 2016, 1–47.

³ Treglia, Daniel, Thomas Byrne, and Vijaya Tamla Rai. 2023. “Quantifying the Impact of Evictions and Eviction Filings on Homelessness Rates in the United States.” *Housing Policy Debate*.

⁴ See Collinson, R., Reed, D. (2018). *The Effects of Evictions on Low-Income Households* and Innovation for Justice. (2020). *The Cost of Eviction Calculator*. University of Arizona, James E. Rogers College of Law. <https://law.arizona.edu/eviction-calculator>. See also

<https://www.huduser.gov/portal/periodicals/em/Summer21/highlight1.html> and National Law Center on Homelessness and Poverty. (2020); Protect Tenants, Prevent Homelessness. <https://nlchp.org/wp-content/uploads/2018/10/ProtectTenants2018.pdf>.

⁵ Desmond, Matthew and Carl Gershenson. 2016. “Housing and Employment Insecurity among the Working Poor.” *Social Problems*. 63(1): 46-67.

⁶ Desmond, M., Gershenson, C., & Kiviat, B., Forced Relocation and Residential Instability Among Urban Renters, *Journal of Urban Health*, 92(2), 254–267 (2015), <https://doi.org/10.1007/s11524-015-9932-2>; Desmond, M., & Shollenberger, T., Forced Displacement from Rental Housing: Prevalence and Neighborhood Consequences, *Demography*, 52(5), 1751–1772 (2015), <https://doi.org/10.1007/s13524-015-0424-y>; Cutts, D. B., Darby, M. L., & Billings, J., The Role of Housing Assistance in Achieving Educational Goals for Low-Income Children, *American Journal of Public Health*, 100(S1), S84–S90 (2010), <https://doi.org/10.2105/AJPH.2009.170910>; Desmond, M., & Kimbro, R. T., Eviction’s Fallout: Housing, Hardship, and Health, *Social Forces*, 94(1), 295–324 (2015), <https://doi.org/10.1093/sf/sou065>; HUD (2021), *Affordable Housing, Eviction, and Health, Evidence Matters*, <https://www.huduser.gov/portal/periodicals/em/Summer21/highlight1.html>. See also Desmond, Matthew, *Unaffordable America: Poverty, housing, and eviction*, Fast Focus, 22-2015, University of Wisconsin-Madison, Institute for Research on Poverty, 4.

⁷ Hepburn, P., Louis, R., & Desmond, M., Racial and Gender Disparities among Evicted Americans. *Sociological Science* 7, 657 (2020), <https://doi.org/10.15195/v7.a27>

had experienced an eviction by age 15. The percentage was approximately 29 percent for children living in deep poverty.⁸

HUD does not have public data on the numbers of people in subsidized housing who experience eviction. There is also very limited data on how many people in subsidized households experience homelessness after eviction. However, one California survey of people experiencing homelessness found that 6% of people experiencing homelessness had received some form of subsidy prior to becoming homeless.⁹

Absent Federal Rules and Laws, Tenants Are Subject to a Variable Patchwork of Notice Requirements

HUD-subsidized housing programs make up one portion of the nation's much larger rental housing market. Absent a Federal rule or statute, housing in the rental housing market is subject to the laws of the locality and state where the housing is located.¹⁰ This is the case for both HUD-subsidized housing programs and for the non-subsidized rental housing market.

HUD's Interim Final Rule Already Requires 30 Days of Notice for Certain Subsidized Tenants Facing Eviction for Nonpayment of Rent.

On October 7, 2021, HUD published an interim final rule titled "Extension of Time and Required Disclosures for Notification of Nonpayment of Rent" (the interim final rule), to assist with the response to the national COVID-19 pandemic and future national emergencies (86 FR 55693, October 7, 2021). HUD, along with other Federal agencies, responded to the national

⁸ Lundberg, I., & Donnelly, L., A Research Note on the Prevalence of Housing Eviction Among Children Born in U.S. Cities, *Demography*, 56(1), 391–404 (2019). <https://doi.org/10.1007/s13524-018-0735-y>

⁹ The California Statewide Study of People Experiencing Homelessness at 33 (June 2023), available at https://homelessness.ucsf.edu/sites/default/files/2023-06/CASPEH_Report_62023.pdf.

¹⁰ The laws of many States and localities around notice requirements may be found in a database created and managed by the Legal Services Corporation: <https://www.lsc.gov/initiatives/effect-state-local-laws-evictions/lsc-eviction-laws-database>. See also National Conference of State Legislatures, "Family-Friendly Courts: State Legislatures' Role in Improving Eviction Proceedings," June 28, 2023, <https://www.ncsl.org/human-services/family-friendly-courts-evictions>; Bradford, Ashley C. and Bradford, W. David, The Effect of State and Local Housing Policies on County-Level Rent and Evictions in the United States, 2004-2016 (September 30, 2021). Available at SSRN: <https://ssrn.com/abstract=3623318> or <http://dx.doi.org/10.2139/ssrn.3623318>; Sudeall, Lauren and Pasciuti, Daniel, Praxis and Paradox: Inside the Black Box of Eviction Court (March 2, 2021). 73 Vanderbilt Law Review 1365 (2021), Georgia State University College of Law, Legal Studies Research Paper No. 2021-19, Available at SSRN: <https://ssrn.com/abstract=3796279>.

emergency declaration during the COVID-19 pandemic¹¹ with efforts to support families impacted financially by the COVID-19 pandemic and at risk of losing their housing.¹²

Under the interim final rule, the Secretary can extend the time period before lease termination for nonpayment of rent to a minimum of 30 days. Pursuant to the interim final rule, HUD issued a joint Public and Indian Housing (PIH) and Housing notice on October 7, 2021 (Notice PIH 2021-29 and H 2021-06).¹³ The rule also provides that the Secretary may require that PHAs and PBRA owners provide tenants with information regarding any Federal funding that is made available to prevent eviction for nonpayment of rent during a national emergency (such as funding through the Emergency Rental Assistance Program created in response to the COVID-19 pandemic).¹⁴

In response to the interim final rule, many commenters expressed their support for adequate notice prior to eviction. Commenters said that sufficient notice provides tenants the opportunity to apply for rent recalculation if their family circumstances warranted such a request or obtain other support available to them, and that the requirement for 30-day notice prior to eviction should not be limited to times of a Presidentially declared national emergency. HUD agrees with these commenters, and in this proposed rule, HUD is extending the 30-day notice requirement (the 30-day notice) to situations outside of a national emergency. Some commenters expressed concerns, stating for example: the eviction notice timeline should be longer and cover all reasons for eviction; the rule does not provide protections to tenants with existing eviction cases; the notice template provided by HUD is likely not accessible for most tenants who may be

¹¹ See 42 U.S.C. 5121 *et seq.*; see also The White House, *A Letter on the Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID-19) Pandemic*, Feb. 24, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/02/24/a-letter-on-the-continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic/>.

¹² See, e.g., HUD, *Mortgage Letter 2020-04: Foreclosure and Eviction Moratorium in Connection with the Presidentially Declared COVID-19 National Emergency*, Mar. 18, 2020, <https://www.hud.gov/sites/dfiles/OCHCO/documents/20-04hsgml.pdf>; U.S. Dep't of Agriculture, *Stakeholder Announcement: USDA Announces Guaranteed Housing Foreclosure and Eviction Relief*, Mar. 19, 2020, <https://www.rd.usda.gov/node/17107>.

¹³ <https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2021-29.pdf>.

¹⁴ See U.S. Dep't of the Treasury, *Emergency Rental Assistance Program*, <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program>.

individuals with disabilities; the rule should extend protections to all renters in federally assisted housing, including Housing Choice Voucher (HCV) and Project Based Voucher (PBV) holders; the rule’s protections should also extend to rental assistance demonstration (RAD) PBV properties; and extending eviction notice requirements cause landlords to lose an additional month of income, and that postponing evictions for nonpayment of rent merely delays evictions, reduces operating income, and increases costs to landlords. HUD looks forward to the public comments received on this proposed rule now that owners and PHAs have had experience implementing the interim final rule.

Before 2021, HUD Regulated Eviction for Non-Payment and Notices in Program-Specific Ways

Prior to the interim final rule, HUD’s regulations and statutory authorities regulated eviction for non-payment and the timing of eviction notices only in certain scenarios for particular HUD programs. In some cases, these provisions were imposed by Congress via statute, while in others, the provisions were imposed by HUD regulations.

Pre-2021 requirements around notice and/or non-payment:

Program(s)	Regulation	Summary of Provision
Public housing	24 CFR 966.4	Non-payment, notice: In the case of termination for nonpayment of rent, a PHA shall provide at least fourteen days’ written notice
Project-based rental assistance programs	24 CFR 247.4(c)	Non-payment, notice: For termination for nonpayment of rent, a termination notice must be provided with enough advance time to comply with both the rental agreement or lease and State laws. Notice: For termination of tenancy for “other good cause,” HUD regulations require 30 days’ notice along with the provision of specific information to the tenant.
Project-Based Section 8	24 CFR 880.607(c)(2); 24 CFR 247.4(c)	Non-payment notice: For termination for nonpayment of rent, the time of service must be in accord with the lease and State law. Notice: For termination of tenancy for “other good cause,” HUD regulations require 30 days’ notice along with the provision of specific information to the tenant.

Section 8 Moderate Rehabilitation Program	24 CFR 882.511(d)(1)(i)	Non-payment, notice: Five working days notice required before tenancy termination for non-payment
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Outside of the specific requirements in authorizing statutes and HUD regulations for specific HUD programs, housing providers have also been required to comply with the laws of the States and localities where particular HUD-subsidized housing is located. HUD estimates that approximately 70% of HUD-assisted households for public housing and project-based rental assistance live in States that require housing providers to provide tenants with an eviction notice for nonpayment of rent 7 days or less before eviction, 26% of these households live in States that require 8-14 days, and 3% live in States that require 15-30 days.¹⁵

Additionally, eviction actions must be consistent with and must not be discriminatory under applicable Federal civil rights laws. *See* 24 CFR part 5, subpart A and 24 CFR part 5, subpart L. HUD has broad investigatory and enforcement powers, relevant to eviction, under these civil rights authorities, including but not limited to, the Fair Housing Act, the Americans with Disabilities Act, section 504 of the Rehabilitation Act, Title VI of the Civil Rights Act, and the Violence Against Women Act (VAWA). Each of these laws provides additional protections against unlawful discrimination for certain individuals and groups facing eviction from HUD-subsidized housing. In particular, the Fair Housing Act, section 504 of the Rehabilitation Act, and the Americans with Disabilities Act require housing providers, among other requirements, to consider and provide reasonable accommodation to individuals with disabilities during all stages of the housing process, including during eviction. Under Title VI of the Civil Rights Act, subsidized housing providers are required to provide limited English proficient persons with meaningful access to their programs and services. This includes providing language assistance

¹⁵ Estimate based on HUD's cross-reference on distribution of subsidized households across States with external analysis of legal requirements per State for non-payment of rent notice (<https://www.nolo.com/legal-encyclopedia/state-laws-on-termination-for-nonpayment-of-rent.html>).

services to limited English proficient persons during eviction. HUD also has guidance around language access that should be interpreted to govern notice provisions.¹⁶

Under VAWA, a covered housing provider cannot evict on the basis or as a direct result of the fact that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. *See* 24 CFR part 5, subpart L, and program-specific regulations. Also, an eviction cannot penalize someone based on their requests for assistance or based on criminal activity of which they are a victim or otherwise not at fault under statutes, ordinances, regulations, or policies adopted or enforced by covered governmental entities. *See* 34 U.S.C.A. 12495. The protections afforded under these authorities are broad and HUD can enforce them with respect to eviction actions for nonpayment of rent.

Non-Payment Evictions from HUD-Assisted Housing May be Preventable.

Most households in HUD-subsidized housing are low-income, with annual household incomes for households in the public housing and project-based Section 8 programs both under \$16,000.¹⁷ These households have limited financial reserves, leaving them especially vulnerable to income shocks or financial emergencies. Tenants in HUD-assisted housing typically pay rent based on their incomes and need adequate time after they experience a drop in income to work with their housing provider to document that change and ensure their rent is properly calculated based on their financial circumstances. Providing more time and notice may help the household and their housing provider to work together to pursue a minimum rent hardship exemption and/or rent recalculation to adjust the amount of rent a tenant will owe. Prior to and as an alternative to a formal judicial eviction proceeding, PHAs and owners must work with tenants to recalculate rent and may make appropriate repayment plans which can then make a formal judicial eviction filing for non-payment of rent unnecessary.

¹⁶ Federal Register Notice, FR-4878-N-02, Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.

¹⁷ Data available at <https://www.huduser.gov/portal/datasets/assthsg.html>.

Many HUD-assisted households pay an amount of rent that is based on their incomes. When HUD-assisted households experience a reduction in income, they may request an interim reexamination to determine whether the amount of rent they pay should be changed.¹⁸

HUD-assisted households can also request a hardship exemption. A minimum rent hardship exemption is an exemption from paying the minimum rent that the PHA or owner normally charges, allowing the household to pay as little as zero dollars in rent if the household has experienced a qualifying financial hardship.¹⁹ A qualifying financial hardship includes when a family would be evicted because the family is unable to pay the minimum rent.²⁰ Whether a household is granted a minimum rent hardship exemption will depend on whether the family has experienced a qualifying financial hardship.²¹ A minimum rent hardship may be temporary or long term and a PHA may not evict a family for non-payment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.²² They are granted a rent recalculation, depending on the amount of the income reduction, and the intention is for the family to experience a rent reduction, if the family's income decreases.²³

Even where households do not qualify for such measures, such as when the income reduction does not meet the threshold requirement for an interim reexamination or qualify for a hardship exemption in accordance with the multifamily housing owner's or PHA's ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable, the family may still be able to

¹⁸ 24 CFR. 960.257(b); *see also*

https://www.hud.gov/sites/dfiles/PIH/documents/PHOG_Reexaminations_FINAL.pdf and <https://www.hud.gov/sites/documents/43503c5HSGH.PDF>.

¹⁹ 24 CFR 5.630, *see also* Public Housing Minimum Rent and Hardship Exemption Requirements Toolkit, HUD Exchange, <https://www.hudexchange.info/programs/public-housing/public-housing-minimum-rent-and-hardship-exemption-requirements-toolkit/> and the specific additional circumstances that qualify as qualifying financial hardships in the PHA's or Multifamily housing (MFH) owner's ACOPs (Admissions and Continued Occupancy Policy), Administrative Plans, or Tenant Selection Plans, as applicable.

²⁰ 24 CFR 5.630(b)(1)(ii).

²¹ Circumstances that always constitute a qualifying financial hardship are detailed in 24 CFR 5.630(b)(1)(i)-(iv); additional circumstances are provided by the housing provider in the PHA's or Multifamily housing (MFH) owner's ACOPs (Admissions and Continued Occupancy Policy), Administrative Plans, or Tenant Selection Plans, as applicable.

²² 24 CFR 5.630(b)(2).

²³ Section 3(a) United States Housing Act of 1937, as amended by section 102 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA), Pub. L. 114-201, 130 Stat. 782. Also see, HUD's implementing regulations at 24 CFR 5.657(c)(2), 882.515(b)(2), 891.410, 960.257(b)(2), and 982.516(c)(2).

arrange repayment plans that allow tenants to remain housed and make the PHA or owner whole, subject to PHA/owner discretion. For example, one manager of approximately \$14 billion of largely affordable and military housing was able to successfully use tenant supports that included affordable, longer-term, fee-free repayment plan options to prevent formal judicial eviction filings and save money that otherwise would have been spent on costly eviction proceedings.²⁴ HUD has issued guidance on creating reasonable and affordable repayment agreements for unpaid rent that keep households stably housed.²⁵

While HUD programs enable residents to report changes in incomes through income recertification and hardship waivers, a 30-day notice requirement provides tenants with more time to report income changes before housing providers commence a formal judicial eviction proceeding. A 30-day notice requirement also allows time for tenants and PHAs or owners to negotiate repayment plans. Independent research also confirms that longer notice periods are correlated to a lower eviction filing rate.²⁶ As discussed in the Regulatory Impact Analysis for this proposed rule, given the size of the HUD programs in 2022, it is estimated that between 1,600 and 4,900 nonpayment related moveouts in Public Housing and PBRA-assisted housing are prevented each year because of the existing 30-day notice requirements of the CARES Act and HUD's interim final rule.

II. Proposed Rule

HUD is proposing to amend its regulations to require that tenants in properties with project-based rental assistance (PBRA)²⁷ and tenants in public housing be provided with written notification at least 30 days prior to lease termination resulting from nonpayment of rent (the 30-

²⁴ King, S. (2021). How One of Boston's Top Evictors Changed Its Ways. Shelterforce. <https://shelterforce.org/2021/12/03/how-one-of-bostons-top-evictors-changed-its-ways/>.

²⁵ Repayment Agreement Guidance, PIH. https://www.hud.gov/sites/dfiles/PIH/documents/Attachment4_Repayment_Agreement_Guidance.pdf.

²⁶ Gromis, A., et al, Estimating Eviction Prevalence Across the United States, Proceedings of the National Academy of Sciences of the United States of America, 6 (2022.) <https://doi.org/10.1073/pnas.2116169119>.

²⁷ For purposes of this proposed rule, PBRA includes projects in the following programs: Section 8, Section 202/162 Project Assistance Contract, Section 202 Project Rental Assistance Contract (PRAC), Section 811 PRAC, Section 811 Project Rental Assistance Program (811 PRA), and Senior Preservation Rental Assistance Contract Projects (SPRAC).

day notice). For PBRA and public housing, HUD would be setting a minimum requirement, so owners and PHAs may provide a longer notice period if they wish to.

This proposed rule would revise HUD's regulations in 24 CFR parts 247, 880, 884, 886, 891, and 966 to provide for a 30-day notification requirement prior to evicting a tenant for nonpayment of rent, regardless of the availability of Federal funding to prevent eviction due to a presidentially declared national emergency. That is, the 30-day notification requirement from the interim final rule would be generally applicable and would no longer be contingent on the existence of a national emergency and the availability of emergency rental assistance funds.

The proposed rule would also require that the 30-day notice include instructions on how tenants can cure lease violations for nonpayment of rent. These instructions would allow tenants to clearly understand how to avoid the commencement of a formal judicial eviction proceeding for non-payment of rent. Instructions on how the tenant can cure the nonpayment of rent violation would include the alleged amount of rent owed by the tenant, any other arrearages allowed by the HUD program, and the date by which the tenant must pay the rent and arrearages to avoid the filing of an eviction action in State court against the tenant's household. The proposed rule would also require that the 30-day notice include information on how tenants can recertify their income and how tenants can request a minimum rent hardship exemption if applicable.

HUD also recommends the best practice of entering into a rental repayment agreement as an alternative to a lump-sum payment for past due amounts. PHAs are also encouraged to include information about how to switch from flat rent to income-based rent.

The 30-day notice must be provided in accessible formats to ensure effective communication for individuals with disabilities, and in a form to allow meaningful access for persons who are limited English proficient (LEP). PHAs and owners must comply with the nondiscrimination requirements contained in Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 along with HUD's regulations implementing those laws.

Title VI's requirements with respect to national origin discrimination including meaningful access for people with limited English proficiency are set forth in HUD's "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" issued on January 22, 2007 and available at <https://www.hud.gov/sites/documents/FINALLEP2007.PDF>.

Additionally, HUD suggests the 30-day notice advise individuals of their right to request reasonable accommodations, include information on how individuals with disabilities can request reasonable accommodation, and include a point of contact for reasonable accommodation requests. There are instances in which a tenant may be entitled to a reasonable accommodation in cases of non-payment of rent.²⁸ For example, if a housing provider usually requires rent be paid on the 1st of the month, but a tenant receives disability-related government assistance later in the month, the housing provider may be required to accept a tenant's request to pay rent on this later date as a reasonable accommodation.²⁹

Once this rule is finalized, HUD plans to issue sample language that PHAs and owners may use. PHAs and owners would also be permitted to draft their own notices if those notices included the required contents laid out in the final version of the rule. HUD will follow the Plain Writing Act of 2010 and the Paperwork Reduction Act when drafting these notices. The agency will also consider best customer experience practices to ensure the sample language is easy to use and understand for tenants, PHAs, and owners. As HUD provides model notices and other

²⁸ See Joint Statement of HUD and DOJ, "Reasonable Accommodations Under the Fair Housing Act" (May 17, 2004), *available at* https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf.

²⁹ See Fair Housing for Individuals with Mental Health, Intellectual or Developmental Disabilities: A Guide for Housing Providers ("What are reasonable accommodations and modifications?...Asking to change the due date for rent until after receipt of a social security disability check or a short- or long-term disability payment..."), *available at* <https://www.hud.gov/sites/dfiles/FHEO/images/MD%20Fact%20Sheet%20-%20HP.pdf>. See also Initial Decision and Consent Order, HUD v. Park Regency LLC et al (October 29, 2020), *available at* https://www.hud.gov/sites/dfiles/FHEO/images/20HUDOHA_InitDecisionConsent.pdf (providing the reasonable accommodation of a fee-free rent payment grace period until the 6th of each month and paying \$27,000 to complainant); Fair Hous. Rts. Ctr. in Se. Pennsylvania v. Morgan Properties Mgmt. Co., LLC, 2017 WL 1326240, at *4 (E.D. Pa. Apr. 11, 2017) (Denying defendants' motion for judgement and allowing a civil rights suit to proceed where defendant, the owner of three apartment buildings, refused to agree to accept monthly rent payments on a later date each month where the later monthly payment timing was due to the plaintiffs' disability and receipt of financial disability benefits.); Charge of Discrimination, HUD v. Morbach et al (March 20, 2006), *available at* https://www.hud.gov/sites/documents/DOC_14412.PDF.

guidance to assist with implementation of this proposed rule, HUD is interested in comments on how to ensure tenant-directed materials such as model leases and notices follow the principles of plain writing, user-centered design, and equitable design.

PHAs and owners would be required to serve this 30-day notice to a tenant or household. Prior to filing a formal judicial eviction, PHAs and owners must ensure that at least 30 days pass following the service of this notice. Some States, localities and territories may have additional timing requirements for serving notices on tenants for non-payment of rent.³⁰ The timing for the service of non-payment of rent notices required under State or local law may run concurrently with the timing requirements of this 30-day notice, unless State or local law requires that such notice be consecutive. Regardless of State or local laws on the timing of non-payment notices, owners and PHAs regulated by this rule must ensure that they do not file a formal judicial eviction until at least 30 days have passed following the service of the notice mandated by this rule. HUD notes the requirements under this rule, including its proposed requirement that the 30-day notice may run consecutive to any additional State or local notice requirements if required by State or local law, do not preempt any State or local law that provides greater or equal protection for tenants.

Furthermore, this rule would require that PHAs and owners amend all current and future leases to properly incorporate the 30-day notice requirement for nonpayment of rent. PHAs and owners would also need to provide tenants with notification of changes to the lease under existing requirements in 24 CFR 880.607(d) and 24 CFR 966.3. Section 880.607(d) requires that an owner, when modifying a lease, serve appropriate notice to tenants at least 30 days prior to the last date on which a tenant has the right to terminate tenancy. This provision applies to PBRA projects under 24 CFR parts 880, 881, and 883 (The New Construction, Substantial Rehab and Housing Finance Agency (HFA) programs). Section 966.3 requires a PHA to provide at least 30

³⁰ See the Legal Services Corporation's comprehensive guide to local eviction laws here: <https://www.lsc.gov/initiatives/effect-state-local-laws-evictions/lsc-eviction-laws-database>.

days' notice to tenants of proposed changes to the lease, and an opportunity for tenants to present written comments.

HUD understands that it will take time for PHAs and owners to incorporate the 30-day notice requirement into leases and to provide notification that the leases will be modified. Accordingly, HUD proposes to provide PHAs with an additional 18 months after this rule becomes effective to comply with the requirement that the lease contain a provision or addendum incorporating the 30-day notice requirement. Since HUD will issue model leases for PBRA programs, this rule would provide PBRA owners with 14 months from the date that HUD publishes a final model lease that complies with the rule to comply with the requirement to update the lease. HUD plans to issue model leases within a year of the effective date of this rule. HUD will issue a Federal Register document to advise the public once the new model leases are available.

Additionally, the proposed rule incorporates the interim final rule's requirement that, in the event of a presidentially declared national emergency, PHAs and owners would also need to provide tenants with other specified information, as required by the Secretary, to prevent eviction for nonpayment of rent. This proposed rule would permit the agency flexibility in the case of any presidentially declared national emergency to require additional information in the 30-day notice. Unlike the interim final rule, there is no requirement in this proposed rule that PHAs and owners must include notification of available emergency rental assistance funds. Rather this proposed rule would provide the flexibility to the Secretary to require this information, or other information, depending on the circumstances of a given national emergency.

HUD has considered the perspectives of stakeholders and subject matter experts in drafting this rule. The Department routinely hears from and carefully considers the perspectives of PHAs and owners, and the multiple associations that represent those PHAs and owners. The Department has also solicited the perspectives of tenants in HUD-subsidized housing and the perspectives of people who provide support and legal representation to those tenants. HUD has

conducted listening sessions with tenants who reside in HUD-subsidized housing. HUD has also consulted with non-profit legal service providers who represent subsidized tenants in eviction proceedings and other eviction prevention actions. In addition, HUD has considered the perspectives of scholars and legal experts who study eviction prevention and has reviewed key decisions related to evictions made by State courts.

Preventable Evictions Frustrate HUD's Mission.

HUD's authorizing statutes require the Department to provide for full and appropriate consideration of the people who live and work in the Nation's communities³¹ and to work toward the goal of "a decent home and a suitable living environment for every American family" – especially for lower-income families.³² The programs that would be subject to this proposed rule perform an essential function toward the goal of ensuring a decent home for lower-income families.

In most cases, program participant owners and PHAs collect rent from tenants and may evict low-income tenants for non-payment of rent. A number of legal service providers for low-income tenants have reported an uptick in eviction cases for non-payment of rent in public housing compared to pre-pandemic levels.³³ HUD is proposing to amend its regulations to provide adequate notice and key information to tenants facing non-payment of rent cases to reduce the number of preventable evictions filed against tenants in HUD-assisted housing.

Preventable evictions for non-payment of rent in HUD-assisted housing hinder the Department's work and frustrate HUD's programmatic efficiency. Accordingly, by reducing preventable evictions, this proposed rule would advance HUD's statutory purposes.

PHAs and Owners Have Already Demonstrated Their Capacity to Comply with These Proposed Changes

³¹ 42 U.S.C. 3531.

³² Section 2 of the Housing Act of 1949; section 2 of the Housing and Urban Development Act of 1968.

³³ See, eg, National Housing Law Project. (2022). Rising Evictions in HUD-Assisted Housing: Survey of Legal Aid Attorneys. <https://www.nhlp.org/wp-content/uploads/HUD-Housing-Survey-2022.pdf>.

PHAs and owners of properties receiving PBRA have already demonstrated their capacity to comply with a 30-day notice requirement prior to an eviction, as demonstrated by their compliance with HUD’s interim final rule. PHAs and owners showed that they could provide the required minimum 30-day notification to terminate a lease for nonpayment of rent during the COVID-19 national emergency. In addition, the CARES Act 30-day notice to vacate requirement for nonpayment of rent, in section 4024(c)(1), is still in effect for all CARES Act covered properties.³⁴ HUD also currently already requires 30-day tenant notification related to certain types of evictions in PIH and Multifamily programs unrelated to nonpayment of rent.³⁵ Some jurisdictions have also already imposed their own 30-day eviction notice requirements on housing providers related to nonpayment of rent and other causes.³⁶

This Proposed Rule Would Align Non-Payment Requirements Across HUD Programs

This proposed rule would simplify requirements across many HUD programs by creating one clear floor and simple standards around how and when notice for lease termination due to non-payment of rent should be provided. In most cases, the regulated programs are already

³⁴ See Pub. L. No. 116-136, 134 Stat. 281 (2020); 15 U.S.C. 9058 (“The lessor of a covered dwelling unit [...] may not require the tenant to vacate the covered dwelling unit before the date that is 30 days after the date on which the lessor provides the tenant with a notice to vacate.” See also *Sherwood Auburn LLC v. Pinzon*, 521 P.3d 212 (Wash. Ct. App. 2022), review denied, 526 P.3d 848 (Wash. 2023); *In re: Arvada Village Gardens LP v. Ana Garate*, 2023 WL 3444733 (Colo. 2023); *W. Haven Hous. Auth. v. Armstrong*, 2021 WL 2775095, at *3 (Conn. Super. Ct. Mar. 16, 2021)(all cases affirm the ongoing applicability of this 30 day notice to covered dwelling units).

³⁵ See 42 U.S.C. 1437d(1); 24 CFR 966.4(l)(3)(i)(B)), and 24 CFR 966.4(l)(3)(i) (providing for a 30-day notice period for evictions from public housing in certain situations). The section 8 project-based rental assistance programs require 30 days’ notice when the grounds for eviction is “other good cause.” State law and the lease govern the length of the notice period for material noncompliance with lease, noncompliance with State law, or criminal activity/alcohol abuse. 24 CFR 880.607, 24 CFR 247.4(e); 90105a Model Lease, Handbook 4350.3 para. 8-13-B 2(e) (PBRA). Section 202/811 programs require 30-day notice for all eviction grounds. Section 202 PRAC: 24 CFR 891.430(b), 90105c Model Lease para. 8(b)(1); Section 811 PRAC: 42 USC 8013(i)(2)(B), 24 CFR 891.430(b), 90105d Model Lease para. 8(b)(1); Section 202/8: 24 CFR 891.630(b), Model Lease para. 9(b) (HUD-90105-b); Section 202/162: 24 CFR 891.770(b) Model Lease para. 9(b) (HUD-90105-b); Section 811 PRA: 42 USC 8013(i)(2)(B), Model Lease para. 8(b) (HUD-92236-PRA); SPRAC: Section 2.6(b) of SPRAC II (HUD-93742a).

³⁶ See, e.g., D.C. Code sec. 42-3505.01 (“A housing provider shall provide the tenant with notice of the housing provider’s intent to file a claim against a tenant to recover possession of a rental unit for the non-payment of rent at least 30 days before filing the claim.”); Wis. Stat. sec. 704.17(3)(a) (“If a tenant under a lease for more than one year fails to pay rent when due . . . the tenancy is terminated if the landlord gives the tenant notice requiring the tenant to pay the rent . . . on or before a date at least 30 days after the giving of the notice, and if the tenant fails to comply with the notice.”); 21 Guam Code Ann. Sec. 48401(b) (“If rent is unpaid when due and the tenant fails to pay rent five (5) days after written notice by the landlord of nonpayment and his intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement thirty (30) days after receipt of notice.”); V.I. Code Ann. tit. 28, sec. 843 (“In any action for the recovery of possession of rented premises, written notice to quit must have been served upon the tenant or person in possession for a period of 30 days before the commencement of such action.”).

subject to regulatory restrictions around how and when tenants are notified of lease termination due to non-payment of rent. Since in many cases funding for affordable housing can come from multiple sources, this proposed rule would also align the requirements to match that of another key HUD program, the HOME program, which is often combined with some of the programs covered by this rule.³⁷

This Rule May Assist PHAs and Owners to Resolve Rental Arrears

Owners and PHAs fund the housing they provide by relying both on HUD's portion of rental subsidies and on tenant rent payments. The portion of rent that tenants in assisted housing must pay is set by Federal law and may vary when tenants experience fluctuations in income. Tenants are responsible for paying the portion of rent assigned to them. In most cases, tenants are responsible for informing the PHA or owner when they experience an income fluctuation that would result in a rent recalculation or hardship waiver. Housing providers face financial uncertainty when tenants do not pay their rent and also face a costly process with formal judicial eviction proceedings. It is generally more cost-efficient for housing providers to assist tenants in curing their non-payment of rent, for example by first providing notice as would be required by this rule, as opposed to evicting tenants for non-payment of rent.³⁸

HUD looks forward to receiving comments on this proposed rule for how to make this workable for different types of HUD stakeholders.

Statutory Authority and Consistency with Current Regulations

HUD has general rulemaking authority under 42 U.S.C. 3535 to implement its statutory mission, which is to provide assistance for housing to promote "the general welfare and security

³⁷ See, e.g., requirements for the HOME Investment Partnerships Program (HOME), which requires 30 days' notice before terminating or refusing to renew tenancy. See 24 CFR 92.253(c) ("To terminate or refuse to renew tenancy, the owner must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of tenancy.") The HOME program statute requires not less than 30 days' notice unless the grounds for tenancy termination involve direct threat to the safety of tenants or employees or serious threat to property. See 42 U.S.C. 12755(b).

³⁸ See, eg, Philip M.E. Garboden and Eva Rosen. 2019. "Serial Filing: How Landlords Use the Threat of Eviction," *City & Community* 18:2, 638, 646; Gretchen Purser. 2014. "The Circle of Dispossession: Evicting the Urban Poor in Baltimore," *Critical Sociology* 42:3, 393, 401.

of the Nation and the health and living standards of [its] people.”³⁹ Each year, HUD provides States, local governments, and housing providers with billions of dollars in Federal financial assistance, appropriated and authorized by Congress. By taking the actions described here, HUD would prevent unnecessary evictions and the costs associated with those evictions for tenants, PHAs, and owners, as compelled by HUD’s mission. Please see the Regulatory Impact Analysis for further discussion of such costs. These actions would promote the general welfare and security of the Nation by avoiding the societal costs and ills of housing instability brought on by evictions.

HUD also has specific statutory authority under the U.S. Housing Act of 1937 to prescribe procedures and requirements for PHAs to follow to ensure sound management practices and efficient operations.⁴⁰ Even more specifically, HUD has the authority to establish “procedures designed to assure the prompt payment and collection of rents and the prompt processing of evictions in the case of nonpayment of rent.”⁴¹ HUD also has authority to specify procedures that ensure tenants receive the elements of due process, such as notice of relevant information, before adverse action is taken against them.⁴²

The Secretary has explicit authority to require that certain terms and conditions be included within leases for HUD-assisted housing,⁴³ including that public housing agencies provide certain specified notice periods and other procedural protections before different types of eviction proceedings.⁴⁴ The Secretary also has statutory authority to establish requirements for PBRA.⁴⁵ This statutory authority provides that during the lease term, the owner must not “terminate the tenancy except for serious or repeated violation of the terms and conditions of the

³⁹ 42 U.S.C. 3531.

⁴⁰ 42 U.S.C. 1437d(c)(4).

⁴¹ 42 U.S.C. 1437d(c)(4)(B).

⁴² 42 U.S.C. 1437d(k).

⁴³ 42 U.S.C. 1437d(a).

⁴⁴ 42 U.S.C. 1437d(l).

⁴⁵ 42 U.S.C. 1437f(g) (section 8 low-income housing assistance); 12 U.S.C. 1701q (section 202 supportive housing for the elderly); 42 U.S.C. 8013 (section 811 supportive housing for persons with disabilities).

lease, for violation of applicable Federal, State, or local law, or for other good cause[.]”⁴⁶ The Secretary is also authorized to provide additional terms and conditions that must be incorporated into the tenant’s lease.⁴⁷ This proposed rule is consistent with the statutory restrictions placed on program participants under this authority.

For lease termination for nonpayment of rent in HUD’s PBRA programs, the regulations currently provide that a termination notice must be provided with enough advance time to comply with both the rental agreement or lease and State laws.⁴⁸ *See* 24 CFR 247.4(c); 24 CFR 880.607(c)(2). By contrast, for termination of tenancy for “other good cause,” HUD regulations require 30 days’ notice along with the provision of specific information to the tenant.⁴⁹

With this rulemaking, HUD will better protect assisted tenants from preventable evictions, increase HUD program’s operational efficiency, and ensure HUD is fulfilling its statutory duties. The agency takes these actions pursuant to its rulemaking authority⁵⁰ and statutory authority for the public housing and PBRA programs.⁵¹

III. Findings and Certifications

Regulatory Review—Executive Orders 12866 and 13563

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. This rule was determined to be a “significant regulatory action” as defined in section 3(f) of the order. HUD has prepared an initial regulatory impact analysis and has assessed the potential costs and

⁴⁶ 42 U.S.C. 1437f(d)(1)(B)(ii). *See also* 42 U.S.C. 8013(i)(2)(B) (section 811).

⁴⁷ 42 U.S.C. 1437f(d)(1)(B)(iv).

⁴⁸ The time period required by State laws can vary from 0 days to 30 days depending on the jurisdiction. *See* NOLO, *State Laws on Termination for Nonpayment of Rent*, <https://www.nolo.com/legal-encyclopedia/state-laws-on-termination-for-nonpayment-of-rent.html> (last updated Dec. 10, 2020) (citing W.Va. Code section 55-3A-1 (no notification period), Fla. Stat. Ann. sec. 83.56(3) (3 days); Idaho Code section 6-303(2) (3 days) and D.C. Code Ann. section 42-3505.01 (30 days)).

⁴⁹ *See* 24 CFR 880.607(c)(1) (stating that the notice must provide the grounds for termination and that the tenancy is terminated on a specified date and advising the family that it has an opportunity to respond to the owner.)

⁵⁰ 42 U.S.C. 3535.

⁵¹ 42 U.S.C. 1437d(l); 42 U.S.C. 1437f(g) (section 8 project based rental assistance); 12 USC 1701q (section 202 supportive housing for the elderly); 42 USC 8013 (section 811 supportive housing for persons with disabilities).

benefits, both quantitative and qualitative, of this proposed regulatory action and has determined that the benefits would justify the costs. The analysis is available at regulations.gov and is part of the docket file for this rule.

Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are “outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.” Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. HUD believes that this proposed rule would provide added protections for tenants and is consistent with Executive Order 13563.

The proposed rule would revise 24 CFR parts 247, 880, 884, 886, 891, and 966 to update HUD’s regulation to curtail preventable and unnecessary evictions by providing tenants time and information to help cure nonpayment violations. This proposed rule would also improve HUD’s programmatic efficiency by ensuring resources are not diverted to cover the costs of unnecessary evictions and by preventing homelessness.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments, and on the private sector. This rule does not impose any Federal mandates on any State, local, or Tribal governments, or on the private sector, within the meaning of the UMRA.

Environmental Review

A Finding of No Significant Impact (FONSI) with respect to the environment has been made for this proposed rule in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C.

4332(2)(C)). The Finding of No Significant Impact is available for public inspection at www.regulations.gov.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule proposes to limit preventable and unnecessary evictions by providing tenants with time and information to help cure nonpayment violations.

HUD anticipates that there will be minimal costs for this proposed rule since PHAs and owners are already required to comply with the CARES Act 30-day notice to vacate requirement for nonpayment of rent in Section 4024(c)(1). Additionally, the paperwork burden and compliance costs for PHAs and owners will be minimal since HUD already requires written notice for nonpayment of rent and will provide the information that PHAs and owners need to meet requirements.

HUD estimates the number of small entities for PHAs as 2,102. At this time, HUD is unable to provide an accurate estimate of small PBRA owners because we do not always know whether there is a corporate structure behind an individual owner. As noted in the Regulatory Impact Analysis for this proposed rule, the added cost of sharing information as required by this proposed rule is minimal since PHAs and owners already have to provide written notice before taking adverse action for nonpayment of rent. This rule would only change the information on the notice. The burden of developing the content of the notice would be minimal since HUD will supply the information that providers will have to give to tenants. The PRA burden for small entities would be the same as for larger ones or approximately, \$90 for each PHA, and \$137 for

each PBRA owner. As noted above, we do not have an accurate number of small PBRA owners, and we estimate the number of small PHAs as 2,102.

Therefore, the undersigned certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has Federalism implications if the rule either imposes substantial direct compliance costs on State and local governments or is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule would not have Federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control numbers 2577-0006 and 2502-0178.

The proposed rule would require that PHAs and owners covered by this rule include in termination notices for non-payment of rent instructions on how the tenant can cure the nonpayment of rent violation, information on how the tenant can recertify their income and how the tenant can request a hardship exemption, and, in the event of a presidentially declared national emergency, such information to tenants as required by the Secretary. This would require a one-time revision to termination notices. This rule would also require that PHAs and owners revise leases one time so they include a provision or addendum that tenants would be provided

with written notification at least 30 days prior to lease termination for nonpayment of rent. Additionally, PHAs and owners are required under 24 CFR 880.607(d) and 24 CFR 966.3 to provide tenants with a one-time notice about the revisions in the lease. The overall reporting and recordkeeping burden to revise termination notices and leases is estimated as follows:

Number of responses (PBRA Owners and PHAs): 26,242

Hours per response: 3

Total Hours: 78,726

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning the information collection requirements in the proposed rule regarding:

- (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) The accuracy of the agency's estimate of the burden of the proposed collection of information;
- (3) Whether the proposed collection of information enhances the quality, utility, and clarity of the information to be collected; and
- (4) Whether the proposed information collection minimizes the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

Interested persons are invited to submit comments regarding the information collection requirements in this rule. The proposed information collection requirements in this rule have been submitted to OMB for review under section 3507(d) of the Paperwork Reduction Act. Under the provisions of 5 CFR part 1320, OMB is required to make a decision concerning this collection of information between 30 and 60 days after the publication date. Therefore, a

comment on the information collection requirements is best assured of having its full effect if OMB receives the comment within 30 days of the publication. This time frame does not affect the deadline for comments to the agency on the proposed rule. Comments must refer to the proposed rule by name and docket number (FR-6085) and must be sent to:

HUD Desk Officer, Office of Management and Budget, New Executive Office Building,
Washington, DC 20503, Fax number: 202-395-6947

and

Colette Pollard, HUD Reports Liaison Officer, U.S. Department of Housing and Urban
Development, 451 7th Street SW, Room 2204, Washington, DC 20410

Interested persons may submit comments regarding the information collection requirements electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

List of Subjects

24 CFR Part 247

Grant programs-housing and community development, Loan programs-housing and community development, Low and moderate income housing, Rent subsidies.

24 CFR Part 880

Accounting, Administrative practice and procedure, Government contracts, Grant programs-housing and community development, Home improvement, Housing, Housing standards, Low and moderate income housing, Manufactured homes, Public assistance programs, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 884

Accounting, Administrative practice and procedure, Grant programs-housing and community development, Home improvement, Housing, Low and moderate income housing, Public assistance programs, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Rural areas, Utilities.

24 CFR Part 886

Accounting, Administrative practice and procedure, Government contracts, Grant programs-housing and community development, Home improvement, Housing, Lead poisoning, Low and moderate income housing, Mortgages, Public assistance programs, Rent subsidies, Reporting and recordkeeping requirements, Utilities, Wages.

24 CFR Part 891

Aged, Grant programs-housing and community development, Individuals with disabilities, Loan programs-housing and community development, Low and moderate income housing, Public assistance programs, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 966

Grant programs-housing and community development, Public housing, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, HUD amends 24 CFR parts 247, 880, 884, 886, 891, and 966 as follows:

PART 247—EVICTIONS FROM CERTAIN SUBSIDIZED AND HUD-OWNED PROJECTS

1. The authority citation for part 247 continues to read as follows:

Authority: 12 U.S.C. 1701q, 1701s, 1715b, 1715l, and 1715z-1; 42 U.S.C. 1437a, 1437c, 1437f, and 3535(d).

2. In § 247.4, revise the last sentence in paragraph (c) and revise paragraph (e) to read as follows:

§ 247.4 Termination notice.

* * * * *

(c) * * * In cases of nonpayment of rent, the termination notice shall be effective no earlier than 30 days after receipt by the tenant of the termination notice.

* * * * *

(e) *Notice requirements in rent nonpayment cases.* In any case in which a tenancy is terminated because of the tenant's failure to pay rent, a notice stating the dollar amount of the balance due on the rent account and the date of such computation shall satisfy the requirement of specificity set forth in paragraph (a)(2) of this section. All termination notices in cases of nonpayment of rent must also include the following:

(1) Instructions on how the tenant can cure the nonpayment of rent violation;

(2) Information on how the tenant can recertify their income and, for tenants residing in projects assisted pursuant to a housing assistance payments contract for project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f), information on how the tenant can apply for a hardship exemption pursuant to 24 CFR 5.630(b); and

(3) In the event of a Presidential declaration of a national emergency, such information to tenants as required by the Secretary.

* * * * *

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

3. The authority citation for part 880 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611-13619.

4. In § 880.606, redesignate paragraph (b) as paragraph (c) and add new paragraph (b) to read as follows:

§ 880.606 Lease requirements.

* * * * *

(b) *Notification for nonpayment of rent.* The lease must also contain a provision or addendum that tenants will receive notification at least 30 days prior to termination of the lease for nonpayment of rent.

* * * *

5. In § 880.607, revise paragraph (c)(6) to read as follows:

§ 880.607 Termination of tenancy and modification of lease.

* * * *

(c) * * *

(6) In the case of failure to pay rent, the termination notice shall be effective no earlier than 30 days after receipt by the tenant. All termination notices in cases of failure to pay rent must include the following:

(i) Instructions on how the tenant can cure the nonpayment of rent violation;

(ii) Information on how the tenant can recertify their income and apply for a hardship exemption pursuant to 24 CFR 5.630(b); and

(iii) In the event of a Presidential declaration of a national emergency, such information as required by the Secretary.

* * * *

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

6. The authority citation for part 884 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

7. In § 884.215, add a second sentence to the introductory text to read as follows:

§ 884.215 Lease requirements.

* * * In addition to the provisions specified in paragraph (b), the lease shall also contain a provision or addendum that tenants will receive notification at least 30 days prior to termination of the lease for nonpayment of rent.

* * * * *

8. In § 884.216, revise paragraph (d) to read as follows:

§ 884.216 Termination of tenancy.

* * * * *

(d) In the case of failure to pay rent, the owner must provide the tenant with a termination notice at least 30 days before the termination notice is effective. All termination notices in cases of failure to pay rent must include the following:

(1) Instructions on how the tenant can cure the nonpayment of rent violation;

(2) Information on how the tenant can recertify their income and apply for a hardship exemption pursuant to 24 CFR 5.630(b); and

(3) In the event of a Presidential declaration of a national emergency, such information as required by the Secretary.

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM – SPECIAL ALLOCATIONS

9. The authority citation for part 886 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

10. In § 886.127, add paragraph (c) to read as follows:

§ 886.127 Lease requirements.

* * * * *

(c) *Notification for nonpayment of rent.* The lease must contain a provision or addendum that tenants will receive notification at least 30 days prior to termination of the lease for nonpayment of rent.

11. In § 886.327, add paragraph (c) to read as follows:

§ 886.327 Lease requirements.

* * * * *

(c) *Notification for nonpayment of rent.* The lease must contain a provision or addendum that tenants will receive notification at least 30 days prior to termination of the lease for nonpayment of rent.

PART 891— SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES

12. The authority citation for part 891 continues to read as follows:

Authority: 12 U.S.C. 1701q; 42 U.S.C. 1437f, 3535(d), and 8013.

13. In § 891.425, add paragraph (d) to read as follows:

§ 891.425 Lease requirements.

* * * * *

(d) *Notification for nonpayment of rent.* The lease must contain a provision or addendum that tenants will receive notification at least 30 days prior to termination of the lease for nonpayment of rent.

PART 966—PUBLIC HOUSING LEASE AND GRIEVANCE PROCEDURE

14. The authority citation for part 966 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

15. In § 966.4, revise paragraphs (l)(3)(i)(A), add a sentence to the end of paragraph (l)(3)(ii), add paragraphs (l)(3)(ii)(A), (B), and (C), and add paragraph (q) to read as follows:

§ 966.4 Lease requirements.

* * * * *

(l) * * *

(3) * * *

(i) * * *

(A) At least 30 days in the case of failure to pay rent;

* * * * *

(ii) * * * All notices of lease termination required by § 966.4(1)(3)(i)(A) due to a tenant's failure to pay rent must also include the following:

(A) Instructions on how the tenant can cure the nonpayment of rent violation;

(B) Information on how the tenant can recertify their income pursuant to 24 CFR 960.257(b), request a hardship exemption pursuant to 24 CFR 5.630(b), or request to switch from flat rent to income-based rent pursuant to 24 CFR 960.253(g); and

(C) In the event of a Presidential declaration of a national emergency, such information as required by the Secretary.

* * * * *

(q) *Notification for nonpayment of rent.* The lease shall contain a provision or addendum that tenants will receive notification at least 30 days prior to termination of the lease for nonpayment of rent.

§ 966.8 [Removed]

16. Remove § 966.8.

Marcia L. Fudge
Secretary

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